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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,526	06/14/2001	H. Ralph Snodgrass	441472000500	9899

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EXAMINER	
BYRD, DEVON R	

ART UNIT	PAPER NUMBER
1639	8

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/881,526	SNODGRASS, H. RALPH	
	Examiner	Art Unit	
	Devon R Byrd	1639	File copy

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2001* .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-41* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

ELECTION/RESTRICTIONS

RESTRICTION TO ONE OF THE FOLLOWING INVENTIONS IS REQUIRED UNDER 35 U.S.C. 121:

I. CLAIMS 1, 3, 4-6, DRAWN TO A METHOD OF CREATING A MOLECULAR PROFILE COMPRISING ALTERATIONS IN GENE EXPRESSION OF A CHEMICAL COMPOSITION USING MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 702, SUBCLASS 19.

II. CLAIMS 1, 3, 7-9, DRAWN TO A METHOD OF CREATING A MOLECULAR PROFILE COMPRISING ALTERATIONS IN PROTEIN EXPRESSION OF A CHEMICAL COMPOSITION USING MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 702, SUBCLASS 27.

III. CLAIMS 2, 3, 4-6, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES COMPRISING ALTERATIONS IN GENE EXPRESSION OF CHEMICAL COMPOSITIONS HAVING PREDETERMINED TOXICITIES USING MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 435, SUBCLASS DIGEST 46.

IV. CLAIMS 2, 3, 7-9, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES COMPRISING ALTERATIONS IN PROTEIN EXPRESSION OF CHEMICAL COMPOSITIONS HAVING PREDETERMINED TOXICITIES USING MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 435, SUBCLASS DIGEST 46.

V. CLAIMS 2, 3, 10, 11, 19, AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE THERAPEUTIC AGENTS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS HAVING PREDETERMINED TOXICITIES USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

VI. CLAIMS 2, 3, 10, 12, 19 AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS HAVING PREDETERMINED TOXICITIES USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

VII. CLAIMS 2, 3, 10, 13, 19 AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS HAVING PREDETERMINED TOXICITIES USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

VIII. CLAIMS 2, 3, 14, 16, 19 AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE ANIMAL THERAPEUTICS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS HAVING PREDETERMINED TOXICITIES USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

IX. CLAIMS 2, 3, 14, 17, 19 AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS HAVING PREDETERMINED TOXICITIES USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

X. CLAIMS 2, 3, 14, 18, 19 AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS HAVING

PREDETERMINED TOXICITIES USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

XI. CLAIMS 2, 3, 15, 16, 19 AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE ANIMAL THERAPEUTICS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS HAVING PREDETERMINED TOXICITIES USING RODENT LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

XII. CLAIMS 2, 3, 15, 17, 19 AND 20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS HAVING PREDETERMINED TOXICITIES USING RODENT LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

XIII. CLAIMS 2, 3, 15, AND 18-20, DRAWN TO A METHOD OF COMPILING A LIBRARY OF MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS HAVING PREDETERMINED TOXICITIES USING RODENT LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 236.1.

XIV. CLAIMS 21, 24 AND 25 IN PART, 26, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM THERAPEUTIC AGENTS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS THAT ARE KNOWN OR UNKNOWN USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XV. CLAIMS 21, 24 AND 25 IN PART, 27 DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGENTS THAT

ARE TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS THAT ARE KNOWN OR UNKNOWN USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XVI. CLAIMS 21, 24 AND 25 IN PART, 28, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS THAT ARE KNOWN OR UNKNOWN USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XVII. CLAIMS 21, 24 IN PART, 29, 31, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGENTS THAT ARE ANIMAL THERAPEUTICS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS THAT ARE KNOWN OR UNKNOWN USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XVIII. CLAIMS 21, 24 IN PART, 29, 32, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGENTS THAT ARE TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS THAT ARE KNOWN OR UNKNOWN USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XIX. CLAIMS 21, 24 IN PART, 29, 33, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGENTS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS THAT ARE KNOWN OR UNKNOWN USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XX. CLAIMS 21, 24 IN PART, 30, 31, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGENTS THAT ARE ANIMAL THERAPEUTICS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS THAT ARE KNOWN OR UNKNOWN USING RODENT LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXI. CLAIMS 21, 24 IN PART, 30, 32, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGENTS TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS THAT ARE KNOWN OR UNKNOWN USING RODENT LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXII. CLAIMS 21, 24 IN PART, 30, 33, DRAWN TO A METHOD OF TYPING THE TOXICITY OF A TEST CHEMICAL COMPOSITION THAT IS SELECTED FROM AGENTS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS THAT ARE KNOWN OR UNKNOWN USING RODENT LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXIII. CLAIMS 22, 23, 24 AND 25 IN PART, 26, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, THAT ARE THERAPEUTIC AGENTS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXIV. CLAIMS 22, 23, 24 AND 25 IN PART, 27, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE

ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXV. CLAIMS 22, 23, 24 AND 25 IN PART, 28, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS USING HUMAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXVI. CLAIMS 22, 23, 24 IN PART, 29, 31, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS THAT ARE ANIMAL THERAPEUTICS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS, USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXVII. CLAIMS 22, 23, 24 IN PART, 29, 32, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXVIII. CLAIMS 22, 23, 24 IN PART, 29, 33, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS USING NON-HUMAN MAMMALIAN LIVER STEM CELLS, CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXVIX. CLAIMS 22, 23, 24 IN PART, 30, 31, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS THAT ARE ANIMAL THERAPEUTICS, NEUROTOXINS, RENAL TOXINS, HEPATIC TOXINS, HEMATOPOIETIC CELL TOXINS, OR MYOTOXINS, USING RODENT LIVER STEM CELLS CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXX. CLAIMS 22, 23, 24 IN PART, 30, 32, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS TOXIC TO CELLS OF ONE OR MORE REPRODUCTIVE ORGANS, TERATOGENIC AGENTS, OR CARCINOGENS USING RODENT LIVER STEM CELLS CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXXI. CLAIMS 22, 23, 24 IN PART, 30, 33, DRAWN TO A METHOD OF TYPING OR RANKING TOXICITY OF (A) TEST CHEMICAL COMPOSITION[S], KNOWN OR UNKNOWN, SELECTED FROM AGENTS THAT ARE AGRICULTURAL CHEMICALS, COSMETICS, OR ENVIRONMENTAL AGENTS USING RODENT LIVER STEM CELLS CLASSIFIED IN CLASS 424, SUBCLASS 9.2.

XXXII. CLAIMS 34-37, DRAWN TO AN INTEGRATED SYSTEM FOR COMPARING LIVER STEM CELL MOLECULAR PROFILES OF A CHEMICAL COMPOSITION A LIBRARY OF LIVER STEM CELL MOLECULAR PROFILES OF CHEMICAL COMPOSITIONS HAVING PREDETERMINED TOXICITIES, CLASSIFIED IN CLASS 707, SUBCLASS 3.

XXXIII. CLAIMS 38-41, DRAWN TO AN INTEGRATED SYSTEM FOR CORRELATING THE LIVER STEM CELL MOLECULAR PROFILE AND TOXICITY FOR A CHEMICAL COMPOSITION, CLASSIFIED IN CLASS 707, SUBCLASS 3.

NOTE: CLAIMS 1-10, 14, 15, 19-25, 29, AND 30 ARE LISTED IN MULTIPLE GROUPS SINCE THEY WERE FOUND TO BE GENERIC TO SAID GROUPS. UPON ELECTION OF A SINGLE GROUP, SAID CLAIMS WILL BE EXAMINED ACCORDING TO THE LIMITATIONS OF THE ELECTED GROUP.

RESTRICTION IS DEEMED PROPER BECAUSE CERTAIN OF THE ABOVE METHODS APPEAR TO CONSTITUTE PATENTABLY DISTINCT INVENTIONS FOR THE FOLLOWING REASONS: GROUPS I-XXXI ARE DIRECTED TO METHODS THAT RECITE STRUCTURALLY AND FUNCTIONALLY DISTINCT ELEMENTS, ARE NOT REQUIRED FOR ONE ANOTHER, AND ACHIEVE DIFFERENT GOALS.

RESTRICTION IS DEEMED PROPER BECAUSE CERTAIN OF THE ABOVE INVENTIVE GROUPS ARE DIRECTED TO DIFFERENT PRODUCTS, RESTRICTION IS DEEMED PROPER BECAUSE THESE PRODUCTS APPEAR TO CONSTITUTE PATENTABLY DISTINCT INVENTIONS FOR THE FOLLOWING REASONS: GROUPS XXXII AND XXXIII ARE DIRECTED TO PRODUCTS THAT ARE DISTINCT BOTH PHYSICALLY AND FUNCTIONALLY, ARE NOT REQUIRED FOR ONE ANOTHER, AND ARE THEREFORE PATENTABLY DISTINCT.

BECAUSE THESE INVENTIONS ARE DISTINCT FOR THE REASONS GIVEN ABOVE, AND

A. HAVE ACQUIRED A SEPARATE STATUS IN THE ART AS SHOWN BY THEIR DIFFERENT CLASSIFICATION;

B. HAVE DIFFERENT AND SEPARATELY BURDENSOME MANUAL AND/OR COMPUTER STRUCTURE, NAME, AND BIBLIOGRAPHICAL SEARCHES; AND,

C. HAVE DIVERGENT SUBJECT MATTER, RESTRICTION FOR EXAMINATION PURPOSES AS INDICATED IS PROPER.

APPLICANT IS ADVISED THAT THE REPLY TO THIS REQUIREMENT TO BE COMPLETE MUST INCLUDE AN ELECTION OF THE INVENTION TO BE EXAMINED EVEN THOUGH THE REQUIREMENT BE TRAVERSED (37 CFR 1.143).

ELECTION OF SPECIES (ALL GROUPS)

CLAIMS 1, 2, 21, 22, 23 ARE ESSENTIALLY UNSEARCHABLE, AS THEY ARE GENERIC TO A PLURALITY OF DISCLOSED PATENTABLY DISTINCT SPECIES COMPRISING:

1. IN VITRO METHODS VERSUS IN VIVO METHODS- SAID CLAIMS CURRENTLY READ ON BOTH,
2. A MAMMALIAN SPECIES- SAID CLAIMS CURRENTLY READ ON ALL SPECIES OF MAMMALS
3. A CLASS OF CHEMICAL COMPOUND, (E.G., PROTEIN, NUCLEIC ACID, FIVE-MEMBERED HETEROCYCLIC RING COMPOUNDS, ETC.)- SAID CLAIMS CURRENTLY READ ON AN INFINITE NUMBER OF CLASSES OF CHEMICAL COMPOUNDS
4. A SINGLE COMPOUND FROM THE ELECTED CLASS OF (3)- SAID CLAIMS CURRENTLY READ ON AN INFINITE NUMBER OF CHEMICAL COMPOUNDS OF ANY CLASS.

THE SPECIES MENTIONED ABOVE HAVE DIFFERENT AND SEPARATELY BURDENSOME MANUAL AND/OR COMPUTER STRUCTURE, NAME, AND BIBLIOGRAPHICAL SEARCHES; AND HAVE DIVERGENT SUBJECT MATTER.

APPLICANT IS REQUIRED UNDER 35 U.S.C. 121 TO ELECT A SINGLE DISCLOSED SPECIES FOR PROSECUTION ON THE MERITS TO WHICH THE CLAIMS SHALL BE RESTRICTED IF NO GENERIC CLAIM IS FINALLY HELD TO BE ALLOWABLE, EVEN THOUGH THIS REQUIREMENT IS TRAVERSED.

APPLICANT IS ADVISED THAT A REPLY TO THIS REQUIREMENT MUST INCLUDE AN IDENTIFICATION OF THE SPECIES THAT IS ELECTED CONSONANT WITH THIS REQUIREMENT, AND A LISTING OF ALL CLAIMS READABLE THEREON, INCLUDING ANY CLAIMS SUBSEQUENTLY ADDED. AN ARGUMENT THAT A CLAIM IS ALLOWABLE OR THAT ALL CLAIMS ARE GENERIC IS CONSIDERED NONRESPONSIVE UNLESS ACCOMPANIED BY AN ELECTION.

UPON THE ALLOWANCE OF A GENERIC CLAIM, APPLICANT WILL BE ENTITLED TO CONSIDERATION OF CLAIMS TO ADDITIONAL SPECIES WHICH ARE WRITTEN IN DEPENDENT FORM OR OTHERWISE INCLUDE ALL THE LIMITATIONS OF AN ALLOWED GENERIC CLAIM AS PROVIDED BY 37 CFR 1.141. IF CLAIMS ARE ADDED AFTER THE ELECTION, APPLICANT MUST INDICATE WHICH ARE READABLE UPON THE ELECTED SPECIES. MPEP § 809.02(A).

SHOULD APPLICANT TRAVERSE ON THE GROUND THAT THE SPECIES ARE NOT PATENTABLY DISTINCT, APPLICANT SHOULD SUBMIT EVIDENCE OR IDENTIFY SUCH EVIDENCE NOW OF RECORD SHOWING THE SPECIES TO BE OBVIOUS VARIANTS OR CLEARLY ADMIT ON THE RECORD THAT THIS IS THE CASE. IN EITHER INSTANCE, IF THE EXAMINER FINDS ONE OF THE INVENTIONS UNPATENTABLE OVER THE PRIOR ART, THE EVIDENCE OR ADMISSION MAY BE USED IN A REJECTION UNDER 35 U.S.C. 103(A) OF THE OTHER INVENTION.

ANY INQUIRY CONCERNING THIS COMMUNICATION OR EARLIER COMMUNICATIONS FROM THE EXAMINER SHOULD BE DIRECTED TO DEVON R BYRD WHOSE TELEPHONE NUMBER IS 703-305-0159. THE EXAMINER CAN NORMALLY BE REACHED ON MON-FRI 8A-5P.

IF ATTEMPTS TO REACH THE EXAMINER BY TELEPHONE ARE UNSUCCESSFUL, THE EXAMINER'S SUPERVISOR, ANDREW WANG CAN BE REACHED ON 703-306-2317. THE FAX PHONE NUMBER FOR THE ORGANIZATION WHERE THIS APPLICATION OR PROCEEDING IS ASSIGNED IS (703) 872-9306.

ANY INQUIRY OF A GENERAL NATURE OR RELATING TO THE STATUS OF THIS APPLICATION OR PROCEEDING SHOULD BE DIRECTED TO THE RECEPTIONIST WHOSE TELEPHONE NUMBER IS 703-308-1235.

BENNETT CELSA
PRIMARY EXAMINER

DB
SEPTEMBER 30, 2003